

Panaji, 15th February, 1990 (Magha 26, 1911)

833  
Out of Stock  
SERIES II No. 46

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

### GOVERNMENT OF GOA

#### Home (General) Department

##### Notification

No. 6/5/87-HD(G)

Read: (1) Government Notification No. 6/5/87-HD(G) dated 29-1-1987.  
 (2) Government Notification No. 6/5/87-HD(G) dated 12-3-1987.

The Government is pleased to appoint Shri Shaikh Hassan Haroon, M.L.A., as Chairman of Goa State Haj Committee.

By order and in the name of the Governor of Goa.

A. T. Kamat, Under Secretary (Home).

Panaji, 5th February, 1990.

#### Planning Department

##### Order

No. 4/6/83-PLG. (Part. III)

Read:— Government's Memorandum No. 4/6/83-PLG (Part III) dated 23-10-89.

On the recommendation of the Local Selection Committee, Shri Ricardo J. Afonso, is hereby appointed, purely on adhoc basis, as Director of Computer Centre, Panaji on an initial basic pay of Rs. 3,700/- per month in the pay scale of Rs. 3,700-125-4,700-150-5,000 plus all other allowances admissible as per Rules, in the Government Computer Centre, Panaji for a period of one year with immediate effect.

The above appointment will not bestow on him any claim for regular appointment and the services so rendered in the grade will not count for the purpose of seniority in that grade and for eligibility for regularisation/confirmation.

Shri G. V. Kamat, Director, Planning, Statistics and Evaluation, Panaji who is holding the additional charge of the post of Director of Computer Centre, Panaji is relieved with effect from the date of handing over the charge to Shri Ricardo J. Afonso.

By order and in the name of the Governor of Goa.

K. A. Satardekar, Under Secretary (Planning).

Panaji, 9th January, 1990.

#### Education Department

##### Order

No. 21/1/90/EDN

Shri G. A. Konesar is hereby temporarily appointed on ad hoc basis as lecturer in Commerce in Government College

of Arts, Science and Commerce, Sanquelim under Directorate of Education with effect from 13-1-90 (B. N.) in the scale of Rs. 2200-4000/- plus the usual allowances admissible from time to time with the initial pay of Rs. 2200/- p.m.

The appointment is subject to the condition specified in the office Memorandum No. 21/11/89-EDN dated 5-10-89 and the Rules and Regulation laid down by the Government from time to time.

The appointment is for a period of six months and purely on ad hoc basis and it will not bestow on the appointee any claim for regular appointment promotion to the higher post and seniority and will be liable to be terminated by one month's salary in lieu of notice.

The appointment is liable for termination in case the character and antecedents of the appointee are adverse so as to disqualify him from the holding of a post under Government.

The appointment is further subject to his acquiring 55% marks within one year.

By order and in the name of the Governor of Goa.

A. P. Panvelkar, Under Secretary (Education).

Panaji, 5th February, 1990.

##### Order

No. 17/3/87/EDN/I

On recommendation of the Departmental Selection Committee, Shri N. G. Sadhale, Lecturer in Physics is promoted on ad hoc basis as Head of Department (Science/Mathematics/Humanities) in Government Polytechnic, Panaji with immediate effect in the scale of Rs. 3000-4500 plus the usual allowances admissible from time to time. His pay will be fixed as per rules.

The appointment is for a period of one year or till the post is filled up on regular basis whichever is earlier and it will not bestow on the appointee any claim for regular appointment/promotion to the higher post.

By order and in the name of the Governor of Goa.

A. P. Panvelkar, Under Secretary (Education).

Panaji, 6th February, 1990.

#### Revenue Department

##### Notification

No. 22/161/88-RD

Whereas by Government Notification No. 22/161/88-RD dated 5-12-88 published on page 477 to 479 of Series II, No. 44 of the Official Gazette dated 2-2-89 and in two news-

papers (i) Navhind Times dated 20-12-88 and (ii) Gomantak dated 20-12-88 it was notified under section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act"), that the land specified in the Schedule appended to the said Notification (hereinafter referred to as the said land), was likely to be needed for public purpose viz. Land Acquisition for const. of water courses No. DISVWC-1L, DISVWC-1L (Branch) and DISVWC-2L in the command area of D1 and its Xelvona Branch in the village Assolda and Xic-Xelvona of Quepem Taluka.

And whereas, the Government of Goa (hereinafter referred to as the "Government") being of the opinion that the acquisition of the said land is urgently necessary, hereby applies the provisions of sub-section (1) and sub-section (4) of section 17 of the said Act and directs that the Collector appointed under paragraph 2 below, shall, at any time, on the expiry of fifteen days from the date of the publication of the notice relating to the said land under sub-section (1) of section 9 of the said Act, take possession of the said land.

Now, therefore, the Government hereby declares under the provisions of section 6 of the said Act, that the said land is required for the public purpose specified above.

2. The Government also hereby appoints under clause (c) of section 3 of the said Act, the Special Land Acquisition Officer, S. I. P. Gogal Margao to perform the functions of the Collector for all proceedings hereinafter to be taken in respect of the said land and directs him under section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the Special Land Acquisition Officer, S. I. P. Gogal Margao till the award is made under section 11.

#### SCHEDULE

(Description of the said land)

Taluka: Quepem

Village: Xic-Xelvona

Survey No. Sub. Div. No.	Names of the persons believed to be interested	Area in sq. mts.
1	2	3
33 part	O: Madhukar Purshottam Raut Dessai. 2. Vasubai Sadashiva Raut Dessai. 3. Babu Pundalik Raut Dessai.	750.00
32 part	O: Balkrishna Govind Raut Dessai. 2. Vinayak Datta Raut Dessai.	800.00
22 part	O: 1. Vinayak Datta Raut Dessai. 2. Balkrishna Govind Raut Dessai.	500.00

#### Boundaries:

North: Railway line.

South: Acquired land Xelvona Branch.

East: S. No. 33, S. No. 32, S. No. 22.

West: — do —

Taluka: Quepem

Village: Assolda

6/165 part	O: 1. Shankar Yeshwant Sinai Assoldekar. 2. Laximan Yeshwant Sinai Assoldekar. 3. Jaiwant Shambu Sinai Assoldekar. 4. Devidas Venkatesh Sinai Assoldekar. 5. Vasudev Hari Sinai Assoldekar.	90.00
8/209 part	O: Shri Sateri Devasthan of Assolda.	125.00
8/254 part	O: — do —	260.00
4/31 part	O: 1. Hari Shamba Raut Dessai. 2. Shada Shanu Raut Dessai. 3. Lila Narayan Raut Dessai. 4. Gurudas Venkatesh Raut Dessai. 5. Vassu Pundalik Raut Dessai. 6. Ganba Vassu Raut Dessai. 7. Anail Kunar Purso Raut Dessai.	80.00
4/32 part	O: 1. Shiva Rama Raut Dessai. 2. Shada Shanu Raut Dessai.	75.00
4/34 part	O: 1. Chandrakant Raut Dessai. 2. Vaman Ganba Senai Seidemkar.	210.00

	1	2	3
4/33 part	O: 1. Shiva Rama Raut Dessai. 2. Vithoba Babli Prabhu Dessai. 3. Shivram Shamba Raut Dessai. 4. Purushottam Nago Raut Dessai. 5. Sada Sham Raut Dessai. 6. Naguesh Venkatesh Raut Dessai. 7. Krishna Chandru Raut Dessai. 8. Appa Datta Raut Dessai.	60.00	
4/29 part	O: Shiva Rama Raut Dessai.	5.00	
5/9 part	O: Krishna Datta Raut Dessai. Mahendra Shamu Raut Dessai. Babu Pundalik Raut Dessai. Anand Ganesh Raut Dessai. Purshottam Venhu Raut Dessai.	50.00	
4/54 part	O: Devidas Venkatesh Sinai Assoldekar. Ananth Subrai Sinai Assoldekar. Shenkar Yeshwant Sinai Assoldekar. Vashudeva Hari Sinai Assoldekar. Yeshwant Laximan Sinai Assoldekar. Jaywant Shambu Sinai Assoldekar.	165.00	
4/62 part	O: Shri Sateri Devasthan of Assolda. T: Sadashiva Shambu Raut Dessai.	325.00	
	<i>Boundaries:</i>		
	North: S. No. 6/165, 8/209, 254, 210, 4/31, 34, 29.		
	South: S. No. 6/165, 8/209, 254, 257, 4/31, 32, 4/62.		
	East: S. No. 4/34, 33, 54, 62, 32, S. No. 1/3, 6/165, 8/209.		
	West: S. No. 6/165, 4/34, 54, 31, 5/9, 8/209.		
1/3 part	O: Shri Sateri Devasthan of Assolda.	175.00	
4/59 part	O: 1. Shri Hari Subraya Naik Kurade. 2. Prakash Subraya Naik Kurade. 3. Phond Shambu Raut Dessai.	60.00	
4/60 part	O: 1. Shankar Rama Raut Dessai. 2. Phond Shambu Raut Dessai. 3. Shadashiva S. Raut Dessai. 4. Ramesh Krishna Raut Dessai.	125.00	
4/56 part	1. Yeshwant Uttam Raut Dessai. 2. Namu Shanu Raut Dessai. 3. Sada Rama Raut Dessai. 4. Madhukar Rama Raut Dessai. 5. Chandru Laximan Raut Dessai. 6. Vithoba Narayan Raut Dessai. 7. Valkunt Gonba Raut Dessai. 8. Zaine Shambu Raut Dessai.	25.00	
4/68 part	O: Yeshwant Uttam Raut Dessai.	20.00	
4/71 part	T: Babu Rama Raut Dessai.	275.00	
4/69 part	O: Yeshwant Uttam Raut Dessai.	10.00	
4/66 part	O: Sonu Gaonkar.	50.00	
4/63 part	O: Pascoal Dias. T: Joao.	150.00	
3/15 part	O: 1. Gansu Narayano Raut Dessai. 2. Govind Maliapa Raut Dessai. 3. Tulshidas Pundalik Raut Dessai. 4. Mudukar Pundalik Raut Dessai. 5. Vithoba Shiva Gaonkar. 6. Sabu Shiva Gaonkar. 7. Gopal Shiva Gaonkar. 8. Rammath Kashinath Raut Dessai. 9. Rama Zingu Raut Dessai. 10. Hari Shambu Raut Dessai. 11. Rama Shadashiv Raut Dessai. 12. Narayan Shambu Raut Dessai. 13. Shadashiva Shambu Raut Dessai. 14. Vithoba Shambu Raut Dessai. 15. Lila Datu Prabhu Dessai. 16. Shanta Shankar. 17. Jaya Pundalik Raut Dessai. 18. Vassu Pandu Raut Dessai. 19. Rajendra G. Raut Dessai. 20. Anil Kumar Purso Raut Dessai.	450.00	
3/12 part	O: Vithoba Babli Prabhu Dessai.	125.00	
40/1 part	O: Shri Sateri Devasthan of Assolda.	350.00	
2/11 part	O: 1. Shiva Rama Raut Dessai. 2. Sunitabai Kashinath Raut Dessai. 3. Venkatesh Nagu Raut Dessai. 4. Vithoba Babli Prabhu Dessai.	400.00	

1	2	3
	5. Lila Narayan Raut Dessai. 6. Tuishidas Raut Dessai. 7. Purushottam Venlu Raut Dessai. 8. Kashinath Shambu Raut Dessai. 9. Krishna Shambu Raut Dessai. 10. Purushottam Nagu Raut Dessai. 11. Ramchandra Bombi Raut Dessai. 12. Narayana Bombi Raut Dessai. 13. Gopika Shamba Raut Dessai. 14. Vithoba Bombi Raut Dessai. 15. Sada Sonu Raut Dessai. 16. Vassu Pandu Raut Dessai. 17. Rajendra Ganba Raut Dessai. 18. Anil Kumar Purso Raut Dessai.	
2/10 part	O: 1. Hari Shambu Raut Dessai. 2. Narayano Bombi Raut Dessai. 3. Rama Shada Shiva Raut Dessai. 4. Vishnu Narayan Raut Dessai. 5. Sada Sonu Raut Dessai. 6. Shama Shivram Devidas. 7. Rama Shadashiva Raut Dessai. 8. Ramanath Krishna Raut Dessai. 9. Krishna Chandu Raut Dessai. 10. Ramchandra Bombi Raut Dessai. 11. Lila Narayan Raut Dessai. 12. Purushottam Nagu Raut Dessai. 13. Gopika Shamba Raut Dessai. 14. Vithoba Bombi Raut Dessai. 15. Nilu Shankar Raut Dessai. 16. Narayan Shamba Raut Dessai. 17. Sada Sanu Raut Dessai. 18. Shiva Rama Raut Dessai. 19. Shadashiva Shambu Raut Dessai. 20. Vithal Shamba Raut Dessai. 21. Jain Pundalik Raut Dessai.	850.00
2/9 part	O: 1. Gopal Shiva Gaonkar. 2. Sonu Shiva Gaonkar. 3. Guno Shambu Gaonkar.	235.00
2/4 part	O: — do —	175.00
2/2 part	O: 1. Shada Shambu Raut Dessai. 2. Vithoba Babli Raut Dessai. 3. Krishna Chandu Raut Dessai. 4. Purushottam Nagu Raut Dessai. 5. Nagu Venkatesh Raut Dessai. 6. Shivaram Shamba Raut Dessai. 7. Appa Datta Raut Dessai. 8. Ramnath Krishna Raut Dessai.	225.00
	<i>Boundaries:</i> North: S. No. 1/3, 4/59, 60, 56, 69, 68, 71, 3/15, 12, 14, 2/1, Road, 2/11, 40/1. South: S. No. 1/3, 4/59, 60, 56, 3/15, 12, 2/11, 40/1. East: 2/1, 2, 4, 5, 9, 10, 11, acquired land Shelvona Branch 3/15, 4/63, 66, 71. West: 2/1, 2, 4, 5, 9, 10, 3/15, 4/63, 66, 69, 71, 1/3, 4/62.	
12/16 part	O: Braulo Carvalho.	130.00
13/9 part	O: Braulo Carvalho.	375.00
13/1 part	O: Pinepa Sinai.	650.00
34/1 part	O: 1. Shankar Ram Raut Dessai. 2. Ramnath Krishna Raut Dessai. 3. Fondu Shambu Raut Dessai. 4. Sadashiva Shankar Raut Dessai.	700.00
35/4 part	O: Sara Fernandes.	150.00
	<i>Boundaries:</i> North: 12/16, 13/9, 13/1, 34/1, 35/4. South: Road, 13/9, 1, 34/1, 35/4. East: 35/4, 34/1, 13/1, 13/9, 12/16. West: 12/16, 13/9, 1, 35/4, 34/1.	
	<b>Total .....</b>	<b>9200.00</b>

By order and in the name of the Governor of Goa.

D. V. Sathe, Under Secretary (Revenue).

Panaji, 17th January, 1990.

### Notification

No. 22/55/89-RD

Whereas by Government Notification No. 22/55/89-RD dated 16-3-89 published on page 12 & 13 of Series II, No. 2 of the Official Gazette dated 13-4-89 and in two newspapers (i) Navhind Times dated 31-3-89 and (ii) Gomantak dated 30-3-89 and corrigendum dated 13-9-1989 published on page 279 of Series II No. 26 of the Official Gazette dated 28-9-89 and in two newspapers (i) Navhind Times dated 20-9-89 and (ii) Gomantak dated 22-9-89 it was notified under section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act"); that the land specified in the Schedule appended to the said Notification (hereinafter referred to as the said land), was likely to be needed for public purpose, viz. Land Acquisition for construction of Waste Weir Tail Channel of M. I. Tank at Amthane Taluka Bicholim.

And whereas, the Government of Goa (hereinafter referred to as the "Government") being of the opinion that the acquisition of the said land is urgently necessary, hereby applies the provisions of sub-section (1) and sub-section (4) of section 17 of the said Act and directs that the Collector appointed under paragraph 2 below, shall, at any time, on the expiry of fifteen days from the date of the publication of the notice relating to the said land under sub-section (1) of section 9 of the said Act, take possession of the said land.

Now, therefore, the Government hereby declares, under the provisions of section 6 of the Act, that the said land is required for the public purpose specified above.

2. The Government also hereby appoints, under clause (c) of section 3 of the said Act, the Special Land Acquisition Officer (North) Irrigation Department Duler Mapusa to perform the functions of the Collector for all proceedings hereinafter to be taken in respect of the said land and directs him under section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the Office of the Special Land Acquisition Officer (North) Irrigation Department Duler Mapusa till the award is made under section 11.

### SCHEDULE

(Description of the said land)

Taluka: Bicholim

Village: Latambarcem

Survey No. Sub. Div. No.	Names of the persons believed to be interested	Area in sq. mts.
1	2	3
678/1 part	Shri Anand Chandru Kamat.	7560.00
" /2 part	Shri Anand Chandru Kamat. T: Shri Babaji Roholo Gaonkar.	1625.00
" /3 part	Shri Anand Chandru Kamat. T: Shri Vithal Pundalik Gaonkar.	105.00
674 part	Shri Shiva Arjun Ugavenkar. T: Baburao Pundalik Usapkar.	4625.00
679/1 part	Shri Atma Arjun Gaonkar. Shri Dattaram Govind Kamat.	440.00
" /2 part	Shri Pandurang Lau Gaonkar. Shri Dattaram Govind Kamat.	950.00
" /3 part	Shri Atma Arjun Gaonkar.	810.00
" /4 part	Shri Atma Arjun Gaonkar. Shri Dattaram Govind Kamat.	360.00
680/1 part	Shri Lakhu Ladu Gaonkar. Shri Vithoba Atmaram Palkar. T: Shri Nauso Gaonkar.	510.00
" /2 part		1015.00
735 part	Shri Pratapshiva Vamanrao Rane Sardessai. Shri Lakhu Ladu Gaonkar.	710.00

### Boundaries:

North: S. No. 674, 678/1, 679/1,  
3, 680/1, 2, 735.

South: S. No. 674, 678/1, 3,  
679/4, 3, 680/1, 2, 735.

East: S. No. 735, Nala.

1	2	3
West: Acquired by Irrigation Department vide Notification No. 22/185/81-RD dated 30-10-82.		
Total .....	18710.00	

By order and in the name of the Governor of Goa.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 8th February, 1990.

Corrigendum

No. 22/97/89-RD

Read: Notification No. 22/97/89-RD dated 19-7-1989, published at pages 191-192, Series II, No. 19 of the Official Gazette dated 10-8-1989 and in three local dailies (1) Herald dated 31-7-1989, (2) Sunaprant dated 4-8-1989 and (3) Rashtramat dated 31-7-1989.

In the Schedule appended to the notification cited above, for the name "Abdul Rashid Khan", the name "Gustao Monteiro Colvesda D'Costa" shall be substituted and for the name "Gustao Monteiro Colvesda D'Costa", the name "Abdul Rashid Khan" shall be substituted.

P. S. Nadkarni, Under Secretary to the Government of Goa.

Panaji, 30th January, 1990.

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Department of Mines

Order

No. 96/471/88-Mines

In exercise of the powers conferred by sub-section (2) of section 8 of the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957), read with sub-rule (2) of rule 24A of the Mineral Concession Rules, 1960, the Government of Goa hereby renews the mining lease with the previous approval of the Central Government in favour of Shri V. D. Chowgule (hereinafter referred to as 'The Lessee'), for undertaking mining operations for Iron and Manganese Ore in the area shown in the schedule appended to this Order for a period of 10 years subject to the special conditions as laid down hereunder to be incorporated in the lease deed which shall be executed by the Lessee and the Governor of Goa.

1. The Lessee shall carry out at his expenses such experiments on remedial measures as directed by the Director of Industries and Mines, Government of Goa or any other officer authorised by him and shall report the result to him.

2. The Lessee shall allow, co-operate with and provide all facilities to the experts authorised by the Government to carry out research work or experiments on remedial measures in his leased area or dumping sites.

3. The Lessee shall, at his own expenses undertake remedial measures to the satisfaction of the Director of Industries and Mines, Government of Goa (hereinafter called Director of Industries and Mines) to prevent damage to the agricultural or forest lands due to the flow of mining rejection or wastes or slimes resulting from his mining operations, within a reasonable time or such time as may be directed by the Director of Industries and Mines.

4. If the Director of Industries and Mines or the officer authorised by him in this behalf, is of the opinion that any active dump causes or will cause damage to the agricultural or forest land, which cannot be prevented, he may by order in writing, direct to stop further dumping on such dump. No such order shall however be made unless the Lessee is afforded a reasonable opportunity of stating his case.

5. The Lessee shall undertake to rehabilitate the land left over after the mining operations are concluded, through soil conservation measures to the satisfaction of the Government

and within such reasonable time as the Government may by an order in writing specify.

6. In the event of the failure on the part of the Lessee to undertake the aforesaid measures within the stipulated period, the Government without prejudice to any other action it may take against the Lessee, may take the requisite steps to rehabilitate the said land and recover the expenses incurred for such work from the Lessee as arrears of land revenue.

7. The Lessee shall undertake necessary measures to consolidate the dumps by planting suitable species of grass, legumes, or trees, etc. as may be directed by the Director of Industries and Mines, from time to time.

8. The Lessee shall undertake to plant elsewhere within the leased area at least as many trees as are removed during the mining operations.

9. The Lessee shall not dump or allow it to be dumped any rejects at any point within a distance of 100 metres from the bank of any river or nallah and 50 metres from the lease boundary, except with the previous written permission of the Government.

10. The Lessee shall not discharge or allow it to be discharged any muddy and slimy water from the beneficiation/washing plant and shall provide settling tanks of proper design and adequate capacity for settling solids so that only decanted water may overflow.

11. The Lessee shall undertake the work of desilting of drains and streams outside the leased area periodically to prevent them from being choked and shall provide check dams to facilitate the settling of suspended solids.

12. The Lessee shall take necessary steps not to overload or allow it to be overloaded the trucks carrying the ore/rejects from the leased area to any loading point or stockyard.

13. The Lessee shall make and pay such reasonable compensation to the owner or tenant or occupant of the land or property situated in the leased area or in the vicinity of the leased area which is damaged or injured or disturbed as a result of mining operations or due to the flow of mining rejects, slimes or wastes from the mine as the case may be, as may be assessed by the Collector, South Goa in accordance with the Law in force on the subject and shall indemnify or keep indemnified fully and completely the Government against all claims which may be made by any person or persons in respect of any such damage, injury or disturbance and all costs and expenses in connection therewith.

14. The Lessee shall obtain surface rights or obtain consent of the owner/occupier of land before entering the land for commencement of mining operations in the area.

Shri V. D. Chowgule shall on peril of revocation of this Order execute within a period of 180 days from the date of communication of this Order a deed of lease as contemplated under rule 31 of the Mineral Concession Rules, 1960

SCHEDULE

District	Taluka	Village	Area in hectares
North Goa	Bicholim	Surla	89.00 Ha.

By order and in the name of the Governor of Goa.

Subhash V. Elekar, Under Secretary (Mines).

Panaji, 12th December, 1989.

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Department of Labour

Order

No. 28/51/82-LAB

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under

the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Governor of Goa.

L. J. Menezes Pais, Under Secretary (Labour).

Panaji, 23rd August, 1989.

IN THE INDUSTRIAL TRIBUNAL  
GOVERNMENT OF GOA  
AT PANAJI

(Before Shri S. V. Nevagi, Hon'ble Presiding Officer)

Ref. No. IT/3/83

Shri Rohidas R. Naik  
V/s  
M/s. S. Kantilal & Co. Pvt., Ltd.

— Workman  
— Employer

Ref. No. IT/5/83

Shri Vasant Pai Arvedkar  
V/s  
M/s. S. Kantilal & Co. Pvt., Ltd.

— Workman  
— Employer

Ref. No. IT/6/83

Shri Chandrakant M. Rege  
V/s  
M/s. S. Kantilal & Co. Pvt., Ltd.

— Workman  
— Employer

Ref. No. IT/7/83

Shri Reginaldo Rodrigues  
V/s  
M/s. S. Kantilal & Co. Pvt., Ltd.

— Workman  
— Employer

Ref. No. IT/9/83

Shri Ashok S. Rajadhyaksh  
V/s  
M/s. S. Kantilal & Co. Pvt., Ltd.

— Workman  
— Employer

Workman represented by Shri K. V. Nadkarni.

Employer represented by Adv. Nutan Sardessai.

Panaji, Dated: 19-7-1989

AWARD

No. IT/3/83

This is a reference made by the Govt. of Goa, by its order No. 28/51/82-ILD dated January 13, 1983, with an annexure scheduled thereto which reads as follows:

"Whether the action of the employer M/s. S. Kantilal and Company Pvt. Ltd., Margao, in terminating the services of Shri Rohidas R. Naik w.e.f. 17-7-1982, is legal and justified?

If not, to what relief the concerned workman is entitled to?"

This is one of the five government references which are being treated as companion proceedings and they are being heard and disposed off by a common judgment. The common factor pertaining to this case and the other cases is that all these 5 workmen were the employees of Party II — M/s. S. Kantilal & Co. Pvt. Ltd., having their office in Gosalia Building, Margao, Goa. As the government reference shows the services of these workmen were terminated by a letter of termination dated 17-7-1982 and as per this letter the services of the workmen were not only terminated on that day but he was asked not to come to the office as the management had taken a decision to close down the establishment at the Head Office at which the workman was working. The workman did not take this letter of termination lightly but he

sent a reply by Regd. Post dated 14th August, 1982 informing the management in clear and un-mistakable terms that their action was tantamount to retrenchment and that while resorting to retrenchment the Company had not complied with the provisions of Sec. 25F of the Act herein after referred to as 'Act'. As the company did not pay any heed to this complaint the workman filed a complaint against the wrongful and illegal termination to the Labour Commissioner on 21-8-1982. The learned Labour Commissioner took cognizance of the industrial dispute, issued notices to the parties for conciliation and ultimately he made a failure report to the Govt. on 18-10-1982 and the Govt. acting on this report made the above reference to this tribunal on 13-1-1983 as stated above.

After notices were issued to the parties the workman appeared and filed his written statement dated 7th Feb., 1983. The roznama in this proceeding shows that the management of Party II conducted the defence in a very haphazard manner and with absolute irresponsibility. Initially the Party II though served with the notice remained absent on the first day viz. 7-2-1983. The Party II remained absent on the adjourned date viz. 28-2-1983. Thereafter my Predecessor adjourned the matter to 16-3-1983 and on that day he held that no other issue besides the reference did arise for consideration and the matter was posted for list of evidence and hearing on 21-4-1983. The employer remained absent on that day and the matter was posted for workman's evidence on 24-6-1983. Shri Ramesh Dessai appeared for the employer and undertook to produce the authority on the next date and the evidence of the workman was recorded on 20-6-1984 without the pleadings of the Company and as Shri R. Dessai for the employer had expired notice was issued to the employer and Shri G. K. Sardessai appeared for the employer on 12-9-1984 and in the protracted matter the evidence of the workman was anyhow completed and his cross examination was over on 5-7-1985. The evidence of witness Domiciano Soares was recorded and the matter was adjourned for employer's evidence. After some protraction the matter went on sine die list on 5-6-1986 due to the retirement of my Predecessor.

After I took over, the matter was fixed on 4-1-1987 on which day the Advocate for the employer Shri G. K. Sardessai withdrew from the proceedings and consequently a fresh notice was issued to the employer and Adv. Philomena D'Silva appeared for the employer and summons to the witness for the employer by name Raghuvir S. Ambe was issued and the matter was taken over by Miss. Nutan Sardessai who examined the witness for the employer Shri R. S. Ambe and the matter was argued over.

No. IT/6/86

This is a reference made by the Govt. of Goa, by its order No. 28/48/82-ILD dated January 27, 1983 with an annexure scheduled thereto which reads as follows:

"Whether the action of Management of M/s. S. Kantilal and Company Pvt. Ltd., Margao in terminating the services of Shri Chandrakant M. Rege, Controller of Accountant w. e. f. 17-7-1982 is legal and justified."

If not, what relief the workman is entitled to?"

This is one of the five references which are being heard as companion proceedings and the workman has filed his claim statement Exb. 2 dated 23-2-1983 reiterating that the order of termination dated 17-7-1982 amounts to retrenchment and the management has terminated his services illegally without adhering to the proper procedure. He challenged this termination by sending a Regd. letter to the management dated 14-8-1982 to which the management did not send any reply and as such he raised the industrial dispute by taking the matter to the Labour Commissioner. The learned Labour Commissioner issued notices to the parties and held conciliation proceedings which failed and he made a failure report and the Government was constrained to make the reference along with other four references.

In this reference the workman has filed his claim statement dated 23-2-1983 as stated above and the management have filed the written statement Exb. 3 dated 28-3-1983 contending inter alia that the workman is not a workman within the meaning of Sec. 2(s) of the I.D. Act. Secondly the management have contended that the business activities of the Company had come to a stand still for the preceding few years and as such the Company took the decision to close down the head office establishment as a result of which the services of the concerned workmen including this workman were terminated. They admit that no retrenchment com-

pension nor other legal dues were paid to the workman. The workman filed his rejoinder Exb. 4 dated 22-4-1983 contending that the statement that the Head Office is closed down is a false one and that the company is in existence and is carrying on the business and as such his service is illegally terminated and the company is bound to pay retrenchment compensation u/s 25FFF of the Act irrespective of the financial position of the company.

With these rival contentions my Predecessor framed the following two issues in this case on 6-6-1983 and they are at Exb. 5:

1. Whether the employer proves that this reference is not maintainable as the workman in this case is not a workman within the meaning of Section 2(s) of the I.D.A., 1947?
2. Whether the employer proves that the retrenchment effected is bona fide, justified and with due compliance of the provisions of the I.D.A., 1947?

No. IT/7/83

This is a reference made by the Govt. of Goa, by its order no. 28/46/82-ILD dated January 29, 1983 with an annexure scheduled thereto which reads as follows:

"Whether the action of the employer, M/s. S. Kantilal & Company Private Limited, Margao, in terminating the services of Shri Reginaldo Rodrigues, Filling Clerk, w.e.f. 17-7-1982 is legal and justified?"

If not, to what relief the said workman is entitled to?"

This is one of the five workmen whose services were terminated by the order dated 17-7-82. Similar to other workmen this workman also challenged the order of termination by sending a Regd. letter to the management on 14-8-82 to which the management did not send any reply. The workman therefore raised an industrial dispute before the Labour Commissioner by sending a letter dated 21st August, 1982. The learned Labour Commissioner held conciliation proceedings and the proceedings failed as there was no settlement and he made a failure report to the government on 18-10-82 and acting on that report the Government made the above reference and the reference was registered in this office and notices were issued to the parties.

The workman appeared in the matter and his defence is common along with the fellow workmen and he claims that the order of termination is nothing less but an order of retrenchment and the provisions of Sec. 25F of the Act are not complied with by the management and as such he is entitled to reinstatement with full back wages and continuity of service since 17-7-82. The management filed the written statement Exb. 3 dated 28-3-83 claiming that the company was running at a loss for many years in the past and from 1979 onwards the business had virtually come to a stand still and the management had to take a decision to close down the head office establishment solely due to the precarious financial position of the company and due to adverse trade reasons. According to them they were justified in terminating the services of the workman. The workman filed his rejoinder Exb. 4 dated 22-4-84 contending that the order is retrenchment order within the meaning of the term u/s 25F of the Act and the workman is entitled to reinstatement with continuity of service and full back wages and for retrenchment compensation u/s 25FFF of the Act. After going through the pleadings my Predecessor by his order dated 6-6-83 framed only one issue dated 6-6-1983 reading thus:

"Whether the employer proves that the retrenchment effected is bona fide, justified and with due compliance of the provisions of the I.D.A., 1947?"

No. IT/5/83

This is a reference made by the Govt. of Goa, by its order No. 28/47/82-ILD dated January 25, 1983 with an annexure scheduled thereto which reads as follows:

"Whether the action of the employer, M/s S. Kantilal & Company Private Limited, Margao in terminating the services of Shri Vasant Pai Arvedkar, Senior Clerk, with effect from 17-7-82 is legal and justified?"

If not, to what relief the said workman is entitled to?"

This is one of the five companion government references. The services of these workmen were terminated by the management of Party II by a letter dated 17-7-82. The workman

challenged this termination by sending a Regd. letter dated 14-8-82 to which the management did not give any reply. Hence he raised an industrial dispute with the Labour Commissioner by writing a letter dated 21st August, 1982 and the learned Labour Commissioner issued notices to the parties and held conciliation proceedings. In the conciliation proceedings no amicable settlement could be arrived at and the Labour Commissioner was constrained to make a failure report dt. 18-2-82. The government acting on the report made the above reference in January 1983 and this reference is one of the five references which are being heard as companion proceedings. All the five references were registered together and notices were issued to the parties.

The workman appeared in the matter and by claim statement Exb. 2 dated 23rd Feb., 1983 he contended that the above order of termination is nothing less but an order of retrenchment and the management resorted to the retrenchment without adhering to the rules and procedure as laid down u/s 25F of the Act. He therefore claims that he is entitled to reinstatement together with full back wages and compensation. The management by its written statement Exb. 3 dated 28-3-83 has challenged the claim and has reiterated that it had to terminate the services of the workman as the business went down and from 1979 onwards the business had virtually gone down to a stand still. Hence, according to them the company took a decision to close down the head office establishment where the present workman was serving and his services were terminated for a legal and valid ground. This is how they have justified their order of termination. The workman filed his rejoinder Exb. 4 reiterating that he entitled to reinstatement with back wages as the order is nothing else but an order of retrenchment without following the proper procedure. With these pleadings my Predecessor by his order dated 6-6-83 framed the following issue at Exb. 5.

"Whether the employer proves that the retrenchment effected is bona fide, justified and with due compliance with the provisions of the I.D.A., 1947?"

No. IT/9/83

This is a reference made by the Govt. of Goa, by its order No. 28/44/82-ILD dated February 2, 1983 with an annexure scheduled thereto which reads as follows:

"Whether the action of the employer of M/s S. Kantilal & Company Private Limited, Margao, in terminating the services of Shri Ashok S. Rajadhyaksh, Accounts Clerk, w.e.f. 17-7-82 is legal and justified."

If not, to what relief the said workman is entitled to?"

The services of the workmen were terminated by a letter dated 17-7-82 admittedly. So also admittedly the workman was asked to go home and not to attend duties from the very next day. Not only this, but no sort of any payment much less than the retrenchment compensation was paid to him. The workman did not take the termination lightly and he wrote a letter to the management challenging their decision and after the management failed to give him any proper reply he approached the Labour Commissioner by raising an industrial dispute by a letter dated 21st August 1982. The learned Labour Commissioner issued notices to the parties and held conciliation proceedings to see whether there could be a amicable settlement in the matter. The proceedings failed and he made a failure report dated 18-10-82. The Government acting on this report made the above reference which is one of the five references, and all these five references are being heard together and are being disposed off together.

So far as this workman is concerned he after notices appeared in the matter and filed his claim statement Exb. 2 dated 28-2-83 claiming that the order of termination is just an order of retrenchment and the management had effected the retrenchment without following the proper procedure as laid down u/s 25F Act, and without paying any retrenchment compensation as required under the rules. The management appeared in the matter and filed written statement Exb. 3 dated 4-4-83 taking a stand that business of the company had gone down considerably and from 1979 onwards the business virtually came down to a stand still. Hence the company took the decision to close down the head office establishment and as such the services of the workman were terminated. On this count the management justified its order of termination. To this the workman filed his counter statement Exb. 4 dated 22nd April, 1983 claiming that the order is nothing but order of retrenchment, and the workman is entitled to reinstatement with continuity of service and

full back wages as the retrenchment is resorted to by the management without following the proper procedure laid down u/s 25F of the Act.

With these pleadings my Predecessor framed only one issue at Exb. 5 on 6-6-1983 and the issue reads thus:

"Whether the employer proves that the retrenchment effected is bona fide, justified and with due compliance of the provisions of the I. D. A., 1947?".

As stated in the foregoing paragraphs these proceedings are treated as companion proceeding and the submissions are made in all the five matters by taking the matters as companion proceedings. Not only this, but the management had filed the written arguments in all the five matters and I shall dispose off all the five matters by writing a judgment covering the evidence of all five cases as the facts in all the five cases are common and the evidence in one case is to be read as evidence in another case. Hence I shall dispose of the five matters discussing the facts and legal position and see what reliefs are the workmen entitled to and whether the workmen and this workman in particular are entitled to any reliefs in the matter.

So far as the workman Rohidas Naik and Chandrakant Rege are concerned the management had taken a basic objection to the tenability of the Govt. reference on the ground that the concerned workman is not a workman within the meaning of Sec. 2(s) of the Act. It has to be noted here pertinently that the management have made a passing reference to this position but they have not elaborated on this point nor have they led any evidence on this point. Shri Nadkarni was quite justified in saying that the management cannot raise this point now because the management has failed to raise the point at the appropriate time. Secondly, he maintained that this basic objection in respect of Rohidas and Chandrakant was disposed off at the appropriate time by the Labour Court and he relies on the decision of my Predecessor Dr. R. Noronha who has delivered his judgment in LCC/3/82 in the matter of Rohidas Naik and LCC/4/82 in the matter of Chandrakant Rege and the orders are dated 26-5-1984. The copies of the relevant gazette are produced at Exb. W.(5), W(6) (IT/3/83) wherein issue no. was whether the applicant proved that he was a workman within the meaning of Sec. 33C(2) of the I. D. A. 1947. It has to be noted that the management of the Opponent had not pressed this issue and consequently my Predecessor held that this issue be deemed to have been dropped. This is how, as back as in 1984 the Party II had not pressed the case as regards the status of the applicant in that case namely the workman in this case and so I hold that this preliminary objection is not sustainable and I shall go on considering the matter on merits so far as the other issues are concerned and obviously the main issue is whether the employer proves that the retrenchment effected is bona fide, justified and with due compliance with the provisions of I. D. A., 1947. This issue is the crux of the whole matter and we have to see whether the Party II has followed strictly the provisions of 25F of the Act and whether the order is justified and proper in the circumstances of the case. In this regard a brief resume of the written arguments on behalf of the management shows that the management has unnecessarily raised the point as regards the burden of proof. The submissions are made in para. 5. After stating that the letter of termination dated 17-7-1982 was issued by the management due to the complete paralysis in the business activities and the management in the best interest of achieving economy had taken the step of lessening the load of burden of employment which directly depended on the capacity of the company to bear it. It is further stated that the management will not be in error to submit and rather to state boldly that the provisions of I. D. Act cannot be invoked for the purpose of challenging the validity of such an action. Further even if it is implied that element of retrenchment is there, the Tribunal will have to hold that in the circumstances of case that the management took the decision just as an appropriate decision in the circumstances of the case and acting prudently, diligently and with utmost caution. Hence the action of the management automatically has to be held as bona fide and justified. In this regard it is submitted on behalf of the management that the burden under issue No. 2 has been wrongly cast on the management and according to the management as is always the case the burden of proving the case is on the applicant or the Party I to prove that the action of the management is bad in law. Hence according to the learned Advocate for the management the issue is not framed properly and the burden is wrongly cast on the management to prove that their action is just and legal. With due respect it has to be stated that the management

is either not understanding the consequences of its action or it is not ready to believe and understand that its action as an employer in terminating the services of the employees is challengeable in a court of law.

A plain reading of the Section shows that the Section is captioned "Conditions precedent to retrenchment of workmen" and the conditions laid down in it have been preamble with the words "No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until". Then the conditions are given which are captioned as (a), (b) and (c). This point is illustrated well by his lordship Gajendragadkar J. in the Supreme Court case of Bombay Union of Journalists v/s State of Bombay reported in 1964 Vol. I LLJ page 351 as "The negative form adopted by the provision coupled with the use of the word "until" which introduces the three conditions, indicates that the conditions must be first satisfied before retrenchment can be validly effected". This is how the three pre-conditions have to be followed by the management before adhering to retrenchment namely

- (a) giving one month's notice or equivalent pay.
- (b) payment of retrenchment compensation and
- (c) requiring the employer to give notice of retrenchment to the appropriate government in the prescribed manner.

In the instant case, the Party II is not an ordinary industry but it is a private limited company which is subject to the supervision of the Registrar of Companies and any such change should be noted to the Registrar. In the instant case we find that the management of this company has not followed any such procedure but it has summarily terminated the services of the five workmen by just stating that "a decision has been taken to close down the establishment at the Head Office and that the services stood terminated with immediate effect". This shows that scant respect was shown to the provisions of law and there was a marked deviation to the procedural aspect and this was further reflected in the action of the management in not participating in the conciliation proceedings before the Labour Commissioner. In his failure report to the Government the Labour Commissioner bemoans in para. 2 of the report that he called the parties for discussion on 13-9-82, 29-9-82, 1-10-82 and 14-10-82. All along the workman appeared along with their representative but none from the employer's side attended for discussions fixed before him. This marked indifference is continued further even in the proceedings in the court as seen from continuous absence of the employer in the Court proceedings and change of the lawyers and at one stage the lawyer had to file a memo of no instructions. I am making these remarks just to understand the attitude of the employer to these matters and to understand their view point to see whether they were acting bona fide in the whole matter. Be it noted here that no compensation of any kind was offered at the time of retrenchment and two of the five workmen had to take the matter to the Labour Court for getting their dues and the workman Rohidas Naik was awarded the dues to the extent of Rs. 15,288/- and the workman Chandrakant Rege was awarded the dues of Rs. 16,881/- This happened in 1984. Still no further steps were taken by the management atleast to make offer to pay the adequate compensation to the workmen if really the management was constrained to close down the business for which there is a provision u/s 25FFF of the Act. As laid down u/s 25FFF of the Act in case of the closing down of the undertaking the compensation to the workmen has to be paid and the procedure for payment of such compensation is laid down therein and the reasons for such closure are given therein and in the explanation it has been clearly laid out that financial difficulties including financial losses, accumulation of undisposed stock, the expiry of lease period and in case where the undertaking is engaged in mining as in the instant case, exhaustion of the minerals in the area in which such operations are carried on, shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso of Sub-Sec. (1) of Sec. 25FFF of the Act. In the instant case the management is all along harping on the fact of financial losses and closing down of mining activities. But the law clearly lays down that these are not the grounds which are beyond the control of the management due to which the undertaking is closed down. In the instant case beyond a mere rhetoric of accumulated losses the management have not led any evidence showing its financial incapability. On the contrary its only witness Shri R. S. Ambe admits in cross examination that the office of Party II M/s. S.

Kantilal and M/s. S. Shantilal where he works are situated in the same building and are situated in the same hall but there is a partition wall. He does not know whether the employees of the said company were transferred with continuity of service in other company. He does not know whether the termination of the employees was informed to the government and whether a notice in prescribed form was sent to the Government before issuing the notice of termination to the said employees. This witness who was serving with M/s. S. Shantilal from 1970 was on deputation with M/s. S. Kantilal & Company. He has no knowledge about the correct financial position of the Company and he wanted to verify the same from the records. He did not know whether undertakings of M/s. Kamat and M/s. Chowgule & Co., were keeping the Mines of M/s. S. Kantilal & Company on contract basis. He does not know whether the Mines of S. Kantilal is still functioning on contract basis. This is the only witness examined by the management of Party II and besides that there is no positive evidence showing the financial position excepting the balance sheet of 1981 at Exb. E-5. As per the observations of the Supreme Court a mere statement regarding the financial losses would not be sufficient to avail of the concession given under Sub-Sec. 1 of Sec. 25FFF of the Act. The illustration to the sub-section positively indicates that financial difficulties including financial losses cannot be deemed to be good ground for closure on account of un-avoidable circumstances. Secondly there is no closure as is adumbrated on behalf of the management. A mere decision to close down the head office would not be tantamount to closing of the Unit because the office is functioning in the same building and this is very clear from the admissions made by the witness Ambe in his cross examination. This is how the evidence of Ambe does not lead the case of the management any further. The management in order to justify their action should have led positive evidence which they have failed to do and it turns out that the letter dated 17th July, 1982 is a simple order of termination asking the workman to quit on the very day and without making any sort of payment admittedly. It is no doubt true that one or two workmen had filed Labour Court cases in this Court to claim certain dues and the awards are passed in their favour. The management should have led evidence showing what was paid to the workmen and what the workmen would be entitled to in the event of the order of termination being set aside. No such steps are taken by them. Further it is not known nor shown whether the 5 workmen are gainfully employed elsewhere after the termination of their services. It appears from the suggestions made to the witness that they have taken some services elsewhere after the order of termination and this is understandable because nobody is expected to remain idle after the employer terminates the services, the legality of which is challengeable. The management should have led evidence about the gainful employment of the workmen after the termination of their services and what amounts were paid to them and what amounts would be due to them in the matter of each of the 5 workmen. Precisely it would be a matter for consideration to work out the dues when the question of giving reliefs to the workmen arises in the event of order of termination is set aside. So far as the order of termination is concerned the workmen have relied on an authority of Supreme Court in the case of Gammon India Limited reported in 1984 Vol. I, Supreme Court Cases page 509. In that case their lordships were discussing the provisions of Sec. 2(oo) read with Sec. 25-F of the Act and whether the termination is falling within the exceptions (a), (b) and (c) of Sec. 2(oo) and whether the same amounted to retrenchment. In that case the management had terminated the services of some workmen on the ground of reduction of volume of business. Ultimately it was held that this amounted to retrenchment. In that case the management had given one month's notice before termination of services. Their lordships of the Supreme Court have held that this one month's notice cannot be treated as notice u/s 25F(a) of the Act. In the instant case even the management has not given one month's notice and the workmen are expelled instantly. On facts of that case their lordships held that in the absence of compliance with prerequisite of Section 25-F, the retrenchment bringing about the termination would be ab initio void. Hence the orders awarding continuity in service with full back wages along with all benefits are confirmed. Another authority of the Supreme Court in the case of M/s Avan Services reported in Supreme Court Labour Judgments, Vol. 7 page 280 the facts relating to Sec. 2(oo) read with Sec. 25FFF are discussed and I have already discussed that position in the foregoing paragraphs. Hence upon a careful scrutiny of the facts and circumstances of the case an irresistible conclusion will have to be arrived

at to hold that the action of the management in terminating the services of the 5 workmen is not just and proper and the reliefs including the relief of reinstatement if the workmen are so interested will have to be granted to each of the five workmen in the five different cases. This is a common judgment written by me pertaining to all the five Government references and I shall pass a separate award in each of the five cases as there are five different references pertaining to the five workmen made by the Government.

Ref. No. IT/3/83

This workman has filed a petition u/s 33C(2) of the Act and an award has been passed in his name. So also it is suggested to the workman that he has taken a suitable employment elsewhere. These facts can be ascertained and verified when the reliefs are to be awarded to the workman. So far as the main Government reference is concerned the same is answered as below:

#### ORDER

It is hereby held that the action of the employer M/s. S. Kantilal & Company Pvt. Ltd., Margao, Goa, in terminating the services of Shri Rohidas R. Naik, with effect from 17-7-1982 is not legal and not justified in the circumstances of the case.

By way of relief it is directed that the workman should be reinstated into services and full back wages and other legal dues be paid to him. While doing so the fact whether the workman is gainfully employed elsewhere and what amount of dues are received by him during the pendency of the reference should be confirmed before making the final payment.

There shall be no order as to costs. Inform the Government accordingly about the passing of the award.

Ref. No. IT/5/83

In the instant case the order of termination of the workman Shri Vasant Pai Arvedkar will be set aside and the workman will be entitled to reinstatement into services with full back wages and other benefits according to law. The Government reference is therefore answered as per order below:

#### ORDER

It is hereby held that the action of the employer M/s. S. Kantilal & Company Pvt. Ltd., Margao, Goa, in terminating the services of Shri Vasant Pai Arvedkar, with effect from 17-7-1982 is not legal and not justified in the circumstances of the case.

By way of relief it is directed that the workman should be reinstated into services and full back wages and other legal dues be paid to him. While doing so the fact whether the workman is gainfully employed elsewhere and what amount of dues are received by him during the pendency of the reference should be confirmed before making the final payment.

There shall be no order as to costs. Inform the Government accordingly about the passing of the award.

Ref. No. IT/6/83

This workman had filed a petition u/s 33 C(2) of the Act and an award has been passed in his name. So also it is suggested to the workman that he has taken a suitable employment elsewhere. These facts can be ascertained and verified when the reliefs are to be awarded to the workman. So far as the main Government reference is concerned the same is answered as below:

#### ORDER

It is hereby held that the action of the employer M/s. S. Kantilal & Company Pvt. Ltd., Margao, Goa, in terminating the services of Shri Chandrakant M. Rege with effect from 17-7-1982 is not legal and not justified in the circumstances of the case.

By way of relief it is directed that the workman should be reinstated into services and full back wages and other legal dues be paid to him. While doing so the fact whether the workman is gainfully employed elsewhere and what amount of dues are received by him during the pendency of the reference should be confirmed before making the final payment.

There shall be no order as to costs. Inform the Government accordingly about the passing of the award.

Ref. No. IT/7/83

In the instant case the order of termination of the workman Shri Reginaldo Rodrigues will be set aside and the workman will be entitled to reinstatement into services with full back wages and other benefits according to law. The Government reference is therefore answered as per order below:

**ORDER**

It is hereby held that the action of the employer M/s. S. Kantilal & Company Pvt. Ltd., Margao, Goa in terminating the services of Shri Reginaldo Rodrigues, with effect from 17-7-1982 is not legal and not justified in the circumstances of the case.

By way of relief it is directed that the workman should be reinstated into services and full back wages and other legal dues be paid to him. While doing so the fact whether the workman is gainfully employed elsewhere and what amount of dues are received by him during the pendency of the reference should be confirmed before making the final payment.

There shall be no order as to cost. Inform the Government accordingly about the passing of the award.

Ref. No. IT/9/83

In the instant case the order of termination of the workman Shri Ashok S. Rajadhyaksh will be set aside and the workman will be entitled to reinstatement into services with full back wages and other benefits according to law. The Government reference is therefore answered as per order below:

**ORDER**

It is hereby held that the action of the employer M/s. S. Kantilal and Company Pvt. Ltd., Margao, Goa, in terminating the services of Shri Ashok S. Rajadhyaksh with effect from 17-7-1982 is not legal and not justified in the circumstances of the case.

By way of relief it is directed that the workman should be reinstated into services and full back wages and other legal dues be paid to him. While doing so the fact whether the workman is gainfully employed elsewhere and what amount of dues are received by him during the pendency of the reference should be confirmed before making the final payment.

There shall be no order as to costs. Inform the Government accordingly about the passing of the award.

S. V. Nevagi  
Presiding Officer  
Industrial Tribunal

◆◆◆◆◆  
**Finance (Revenue and Control) Department**

**Notification**

No. 5/7/81-Fin (R & C)

In exercise of the powers conferred by sub-section (1) of section 10 A of the Goa Sales Tax Act, 1964 (Act 4 of 1964), the Government of Goa hereby amends the Government Notification No. 5/7/81-Fin (R&C) dated 24th November, 1981 published in the Official Gazette No. 35, Series II dated 26th November, 1981 as modified by the Government Notification of even number dated 28-5-1986 (hereinafter called the "said Notification"), as follows namely:—

In the said Notification, for the figure "25,000", the figure "32,000" shall be substituted.

By order and in the name of the Governor of Goa.

K. M. Nambiar, Under Secretary (Finance Exp.).

Panaji, 5th February, 1990.

**Law (Establishment) Department**

**Order**

No. 1/25-83/LD

Whereas disciplinary proceedings were instituted against Shri M. C. Jethani, Civil Judge, Junior Division, Margao under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965 on the following articles of charges, namely:—

**Charge — I:**

That Shri M. C. Jethani, while working as Civil Judge, Junior Division and Judicial Magistrate, First Class at Diu, entertained on 7-5-1976, without jurisdiction, and inspite of it being contrary to provisions of section 26 of the Goa, Daman and Diu Civil Courts Act, 1965 and without serving a notice as required under section 80 of Civil Procedure Code, 1908, a Civil Suit bearing No. 3 of 1976, filed before him by his own mother, Smt. Gomibai C. Jethani, 583 - A Office Road, Diu (Plaintiff) against the Tax Recovery Officer III, Poona, 60/61 ERANDUANA, Maharashtra Rashtra Bhasha Building, Karve Road (Near Nal Stop) Poona - 4 (Defendant); for declaration and permanent injunction and passed an order granting ex-parte injunction against the defendant Tax Recovery Officer restraining him from recovering the Tax due from the said plaintiff Gomibai.

**Charge — II:**

That the said Shri M. C. Jethani entertained on 14-6-1976 in Diu Court, an application for withdrawal of the Civil Suit referred to above filed by his mother, the said Gomibai, against the Tax Recovery Officer and passed an order allowing her to withdraw the suit with liberty to institute a fresh suit in respect of the subject matter of the said suit, though he had ceased to be the Civil Judge of Diu consequent upon his transfer from Diu to Daman Court w.e.f. 14-6-1976, vide order No. JCC/SC-7/76/1 dated 28-5-1976 issued by the Registrar of the then Judicial Commissioner's Court, Goa, Daman and Diu, Panaji.

**Charge — III:**

That Shri M. C. Jethani while working as Civil Judge, Junior Division and Judicial Magistrate, First Class at Daman, during the period from 22-6-1976 till the year 1978, harassed Mr. & Mrs. Gullamhussein Ramzan Mhawla, residents of Katheira Nani-Daman, in the manner hereinbelow described:

(1) He had informed the said Mrs. Mhawla, who had applied for certified copies of the documents in respect of Civil Suit No. 1 of 1977 of Daman Court, that the file of the said Civil suit was lying in the Court of Addl. District & Sessions Judge, Panaji and that she should obtain such copies from that Court, though as per the roznama of the proceedings written in the same suit, the said file in respect of Civil Suit No. 1/77 was in his Court, at Daman, at the relevant time, Shri Jethani had done this intentionally to harass her due to strained relations between them:

(2) That Shri Jethani posted the Civil Suit No. 1/77 for framing of issues, on 20-2-1978, and notices were directed to be issued to the parties. However, on 20-2-1978, Shri Jethani recorded in the roznama that the defendant Mhawla and Adv. Shri Bhatia were absent, without ascertaining whether they have been served notices, or not, and framed issues on that day though, when in fact, they were not served with the notices.

(3) That Shri Jethani granted an application filed by the Police for further extension of time, on 31-8-1977, for investigation under section 202 of Criminal Procedure Code, 1973 inspite of the fact that stay was granted by the Sessions Court, Panaji in Cr. M. A. No. 95/77 in respect of Cr. Case No. 63 and 64 of 1977 of the Daman Court and when Mhawla applied for certified copy of the said Order, Shri Jethani did not supply the same and directed his subordinate to send a letter No. JUD/Misc/157/516/1977 dated 1-9-1977 to Shri Mhawla informing therein that since the case has not been registered and cognizance was not taken the copy cannot be given unless he shows the provisions of law under which he is entitled to get the copy of correspondence of the Court with other office. Further, when the said Cr. Case was transferred from his file to the Court of Chief Judicial Magistrate, Panaji, Shri Jethani deliberately removed the said application of the Police for

further extension of time and sent the files to the Chief Judicial Magistrate, Panaji with instructions to his subordinate Shri Takurdas Rana to keep the said application in the safe.

(4) That Shri Jethani harassed Mr. Mhawla in Election Petition filed by him in District Court, Panaji which was made over to the Chief Judicial Magistrate, Panaji, for disposal. The Chief Judicial Magistrate, Panaji in the same matter appointed Shri Jethani as a Commission to hear evidence in the matter at Daman with the direction to comply it within 60 days. Though the Commission was received by him in his Court on 11-8-1977, the hearing was fixed on 21-9-1977 i.e. one month and 10 days later, when the time given for completion was 60 days. Further, Shri Jethani adjourned the said matter a number of times and forced the Petitioner, Shri Mhawla to remain present with his advocate and his witnesses in his Court, unnecessarily thereby putting Shri Mhawla to unnecessary expenses, though Shri Jethani had no intention to complete the same due to his strained relations with Shri Mhawla."

And whereas Dr. Alvaro de Noronha Ferreira District and Sessions Judge, Panaji was appointed as Enquiry Officer to enquire into the charges framed against Shri Jethani vide order No. 3907(3)/83(G) dt. 16-7-1983 (hereinafter referred to as the 'Enquiry Officer');

And Whereas the Enquiry Officer in his report held that articles of charges I and II against Shri Jethani were proved;

And Whereas a show cause Notice was served on Shri Jethani as to why the punishment proposed viz. dismissal from service should not be imposed upon him;

And Whereas the findings of the Enquiry Officer and the explanation offered by Shri Jethani to the show-cause Notice in respect of the punishment were carefully considered by the Governor of Goa;

And Whereas the Governor of Goa having regard to its findings, gravity of the misconduct committed by him is of opinion that a major penalty of compulsory retirement as specified under rule 11 (vii) of the Central Civil Services (Classification, Control and Appeal), Rules 1965 would be justified in this case;

Now, Therefore, in pursuance of sub-rule (4) of rule 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the Governor of Goa hereby imposes on Shri M. C. Jethani, a major penalty of compulsory retirement with immediate effect.

By order and in the name of the Governor of Goa.

*Maria A. Rodrigues, Under Secretary (Law).*

Panaji, 5th January, 1990.

### District and Sessions Court

#### Order

No. DSC/CF/L/159/89/687

Shri Crisanto Fernandes, Civil Judge, Junior Division and Judicial Magistrate, First Class, Pernem, is hereby granted Half Pay Leave for 4 days with effect from 22-1-1990 to 25-1-1990 with permission to prefix 21st January, 1990 being Sunday and to suffix 26th, 27th and 28th January, 1990 being Public Holiday, 4th Saturday and Sunday respectively.

Certified that but for proceeding on leave he would have officiated as Civil Judge, Junior Division and Judicial Magistrate, First Class, Pernem.

On expiry of leave granted he is likely to be posted in the same station from where he is proceeding on leave.

During Shri C. Fernandes's absence on leave Shri D. P. Dhabolkar, Civil Judge, Junior Division and J.M.F.C., Mapusa, shall look after Reg. Civil Suit and Criminal matters, of his Court.

*Eurico Santana Da Silva, District and Sessions Judge.*

Panaji, 25th January, 1990.

### Notification by the High Court of Judicature, Appellate Side, Bombay

No. A. 1202/G/89

The Honourable the Chief Justice and Judges are pleased to grant ex-post-facto sanction to the Earned Leave for 4 days from 11 December, 1989, to 14 December, 1989, with permission to prefix on 9 and 10 December, 1989, being 2nd Saturday and Sunday thereto, availed of by Shri Eurico Santana Da Silva, District and Sessions Judge, Panaji.

On return from leave Shri Da Silva was reposted as District and Sessions Judge, Panaji.

Shri V. P. Shetye, Additional District and Sessions Judge, Panaji was kept in charge of the post of the District and Sessions Judge, Panaji, in addition to his own duties, during the above leave period of Shri Da Silva.

High Court, Appellate Side,  
Bombay, 16 December, 1989.

*S. V. Joshi  
Registrar*